593 fourth time are they obliged to return what they have taken. The
685 son of a married daughter, who has not succeeded in being granted something from his grandfather, takes it without permission and does not give it up for /34/ the first three times. The fourth time the bii sentences him to return the thing without a penalty, but a penalty is fixed for a fight at the time the thing is taken. All this relates also to the close kinsmen in general.

When the thief denies his guilt, the bii interrogates witnesses, but he is not sworn among kin. Incidentally the bii consoles the father (or kinsman) by the fact that he takes from the son in his turn when the latter becomes rich (collected in the Perovsk uyezd).

593 Patricide is unknown in the steppe. For this crime they would
682 banish the offender from the society after a preliminary disgrace E. A. Aleksandrov, assistant to the chief of the Kazalinsk uyezd, says that the customary law is silent concerning patricide. The killing of children can happen by mistake, and in such a case it is not punished. (1)

[847] 1. It sometimes happens that the Kazakhs in a fit of anger and in general in matters of dispute, in showing their opposition throw their children under the /horse's ?/ legs of the adversaries, who not infrequently trample them in fighting. Women especially practise this kind of opposition, throwing unweaned children under the feet of horses. Wergeld
[628] in such cases is sought from the persons in the tent or in the village.

593 Children who have not received their allotment cannot have their own separate property. But once they have received their allotment the father ceases to distribute his property to them.

[882] Until the age of 12-15, children are not yet of serious mind
(akyl toktatpaidy), and therefore sales, purchases, loans and other
[675] arrangements by them are invalid. Buying and selling done against the will of the father by a son who has not yet received his allotment is not broken.

The power of the mother rests on the power of the father. Children obey her for fear that she will tell the father.

When a father wishes to free himself from an incorrigible son, he gives him a small allotment, leaving him to his own devices to earn the kalym /bride price/ if he is unmarried. If this son is already married, the father expels him without an allotment, leaving him to earn

deepened them and repaired them. The latter must withdraw when 312
the first proprietor presents witnesses or a personal oath. It goes to 423
the later proprietor in the case where no one knows of the digging 425
except the first person. If the second proprietors have planted trees or done building, the water belongs to the first owners and the trees and buildings to the second. The first owner can buy them off, and he can also demand their removal.

Where underground water is near the surface, everyone digs 312
his own well (kuduk). In digging a deep well, to a depth of 5-6 675
sazhens (chingrau) /35-40 feet/, the nomads hire workers who know the business, for pay which is determined beforehand, and which remains the same without regard to the depth at which the water appears. At the same time they enter a condition that no wergeld will be demanded for workers who might be covered by sandy dirt caving in.

According to Umurbek and others, the proprietor of a well 423
can refuse water to a stranger.

There were yarlyks of the khans on the right of the use of water, some of which survive to this day. The yarlyks do not mention land, but canals, winter camps and summer camps. The latter are mentioned without fail in one and the same yarlyk, for the Kazakhs cannot remain in one place the year round. If a winter camp which is owned by the yarlyk remains unoccupied by its proprietor, and during this time others settle on it, the proprietor receives it back; in any case even if they put buildings on it. The son of the previous owner can make the same demand, but never a strange man, whose right to the land was promised in some way by the previous owner. The newcomers give up the building, and remain on the neighboring land.

/106/ If a clan puts in a claim for land planted by another clan, 423
without founding the claim on any documents, the biis settling this 695
dispute must interrogate persons who are not implicated in the affair and also the elders from the people. If with all this no one knows whether the father or the grandfather of the plaintiff sowed this land, and even if it appears that they planted for two or three years, about 20-30 years previously, then in the case that the present proprietors have no documents, an oath is demanded of them.

If the fathers and grandfathers of the plaintiff did plant this land in earlier times, and then abandoned it and departed 20-30 years ago, and their children or descendants file a claim with no documents or proof except for traces of kurganchey or winter camps, established by them or their predecessors, then in case the opposite

695 in dispute or in enmity with the cummunity from which the oath taker has to be chosen.

In the Kazalinsk uyezd, according to a report from E. A. Aleksandrov, khodjas are not freed from the oath, and in general no one is, except ishans. (1)

1. Formerly also members of the sultan's clan.

Among the Kirgiz, biis, manaps, volost officials and other persons of high standing are not excused from the oath. (2)

2. In Siberia, the agreement of the "disputable persons" who are eliminated is required before this can be done, and a voucher must be made to the effect that they or their clan are at odds with the clan of the litigant(Torgai)

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When it is necessary for someone to clear himself of suspicion outside of court, or to confirm his assertion or promise by an oath, they suggest to him that he say olda (instead of vallakhi, By God), or to drink up a quantity of water (su urttashi), or to step across a line scratched in the ground, or to make his statement facing the saint(auliyaga karab aytchi), or to lick the sharp edge of a knife (pshaktyng yuzin yala) or to lick the end of a finger, facing the moon. They attach so much importance to this oath out of court that they end a dispute informally (Torgai).

• 695 In making contracts the oath is sometimes used: "May God punish whichever one of us breaks this agreement" (osu suzimizdi buzganymzdy kuday buzsyn) . Or they lay a stone on the head (Makovetskii, I p. 49). This last custom no longer exists, according to Torgai, but they do say: "May your salt hit me, or the food which you have offered me, if I "etc., or: "I swear by the salt"(tuzingiz ursyn, nyanyngyz ursyn, tuzning khakynda). Swearing by the salt is a general Moslem custom.

In the conclusion of a pact for action against a common enemy /224/, the elders, yuzbashi, tubesh (standard bearer), and other honored persons in a party gather in one tent for a conference. They pledge themselves not to betray each other into the hands of the enemy, not to betray the total affair and not to hide booty, but to

present it all to be divided. After this they slaughter a white horse 675
(bozat), or a grey one with a star on the forehead (kok kaska), or a white ram with a yellow head (ak sarybas), saying: "May the one who betrays this pact be killed like this animal" (ar kim sol sherttep taysa, sol malday soyylsyn). Here shert means agreement, promise, oath (according to Torgai and Makovetskii, I, p. 49).

Among the Kirgiz, in assertions by oath (kargych) they propose the licking of a knife and saying: May God, bread or the book (Koran) strike me, or else saying: May I be mayneke. The last expression, the meaning of which was unknown to the informant, bii Daniyar, is used only by women and children.

/225/ CHAPTER XII.

Fines: atton, muynyna kosak kutine terkeu and toguz. - Wergeld. - Corporal punishment. - Shaming. - Banishment.

Fines (ayb) are exacted in suits for theft, offense, fighting, 681
disturbing the peace and the general morality. (1)

1. The Perovsk uyezd chief, Mikebai and others, say concerning the fines that they are increasing the number of fraudulent suits, opened for reasons of avarice, and inciting the biis to judge falsely, acting in secret with the plaintiff. They are also bankrupting individual owners, and whole communities, from whom the fine is exacted when the defendant has not had enough property.

No fine is imposed in civil suits over debts and other obligations. The fine goes to the use of the plaintiff, and therefore he can consent to a reduction. Sometimes the plaintiff asks only for the return of the stolen goods, waiving the obtainment of the fine and the expenses (the biis' books of the Auliye-Ata uyezd).

If after paying the fine, the defendant later clears himself of the accusation brought against him and presents the actual perpetrator in court, the fine is returned to him.

The best known fines of the customary law are the atton, the muynyna kosak kutine terkeu and the nine /toguz/. (2)

2. In the Kazalinsk uyezd the fines are usually of the following type: a) a chapan (long coat), which is customary for a slight